

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 326

Introduced by Assembly Member Blakeslee

February 10, 2005

An act to amend ~~Section 270 of~~ *Sections 270, 275, 276, 277, 278, 279, and 280 of*, and to repeal *Section 281 of*, the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 326, as amended, Blakeslee. Telephone corporations: universal service.

Existing law, the federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. The act authorizes states to adopt regulations not inconsistent with Federal Communications Commission rules to preserve and advance universal service. The act requires that every telecommunications carrier that provides intrastate telecommunications services contribute, on an equitable and nondiscriminatory basis, in a manner determined by the state, to the preservation and advancement of universal service in that state. The act authorizes each state to adopt regulations to provide for additional definitions and standards to preserve and advance universal service within the state, only to the extent that they adopt additional specific, predictable, and sufficient mechanisms that do not rely on or burden federal universal service support mechanisms.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law authorizes the commission to fix just and reasonable rates and charges. Existing law establishes the California High-Cost Fund-A Administrative Committee Fund, the California High-Cost Fund-B Administrative Committee Fund, the Universal Lifeline Telephone Service Trust Administrative Committee Fund, the Deaf and Disabled Telecommunications Program Administrative Committee Fund, the Payphone Service Providers Committee Fund, and the California Teleconnect Fund Administrative Committee Fund in the State Treasury and requires that the moneys in the funds be expended only to accomplish specified telecommunications universal service programs, upon appropriation. Existing law provides that moneys in the funds are the proceeds of rates and are held in trust for the benefit of ratepayers and to compensate telephone corporations for their costs of providing universal service.

~~This bill would provide that moneys in the funds are the proceeds of rates and are held in trust for the benefit of telephone corporation ratepayers and to compensate telephone corporations for their costs of providing universal service~~ *abolish the 6 funds in the State Treasury and would require the commission, until January 1, 2009, to establish a trust account to administer any transfer payments made pursuant to the state's universal service programs and to require that moneys authorized to be collected by the commission to support universal service programs, excluding intracompany transfers, be deposited into the universal service programs trust account. The commission would be required to establish the California High-Cost Fund-A Administrative Committee Subaccount, the California High-Cost Fund-B Administrative Committee Subaccount, the Universal Lifeline Telephone Service Trust Administrative Committee Subaccount, the Deaf and Disabled Telecommunications Program Administrative Committee Subaccount, the Payphone Service Providers Committee Subaccount, and the California Teleconnect Fund Administrative Committee Subaccount within the universal service programs trust account. The bill would require the commission to appoint a 3rd party trustee, subject to confirmation by the Legislature, to administer the universal service programs trust account. The bill would make other conforming changes.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 270 of the Public Utilities Code, as amended by Section 2 of Chapter 847 of the Statutes of 2004, is amended to read:

~~270. (a) The following funds are hereby created in the State Treasury:~~

270. (a) *The commission shall establish a trust account to administer any transfer payments made pursuant to the state's universal service programs. For purposes of this chapter, "universal service programs trust account" means the trust account established by the commission pursuant to this subdivision.*

(b) The following subaccounts shall be established in the universal service programs trust account, for each of the following universal service programs:

(1) The California High-Cost Fund-A Administrative Committee-Fund Subaccount.

(2) The California High-Cost Fund-B Administrative Committee-Fund Subaccount.

(3) The Universal Lifeline Telephone Service Trust Administrative Committee-Fund Subaccount.

(4) The Deaf and Disabled Telecommunications Program Administrative Committee-Fund Subaccount.

(5) The Payphone Service Providers Committee-Fund Subaccount.

(6) The California Teleconnect Fund Administrative Committee-Fund Subaccount.

(c) Moneys in the universal service programs trust account are the proceeds of rates and are held in trust for the benefit of telephone corporation ratepayers and to compensate telephone corporations for their costs of providing universal service. Moneys in the funds may only be expended pursuant to this chapter and upon appropriation in the annual Budget Act or upon supplemental appropriation.

(d) All moneys authorized to be collected by the commission to support universal service programs, excluding intracompany transfers, shall be deposited into the universal service programs trust account, in the appropriate subaccount. The commission may authorize a telephone corporation to establish trust

1 *accounts for intracompany transfers pursuant to the state's*
2 *universal service programs, subject to audit and oversight by the*
3 *commission.*

4 *(e) The commission shall appoint a third-party trustee, subject*
5 *to confirmation by the Legislature, to administer the universal*
6 *service programs trust account. The commission shall oversee*
7 *the actions of the trustee to ensure that the trust account is*
8 *administered consistent with the universal service program*
9 *requirements established by the commission and statutory*
10 *requirements.*

11 *(f) The commission's authority to order the collection and*
12 *disbursal of funds to advance universal service shall become*
13 *inoperative on January 1, 2009, unless a later enacted statute,*
14 *that is enacted before January 1, 2009, deletes or extends that*
15 *date.*

16 *SEC. 2. Section 275 of the Public Utilities Code, as amended*
17 *by Section 1 of Chapter 767 of the Statutes of 2004, is amended*
18 *to read:*

19 275. (a) There is hereby created the California High-Cost
20 Fund-A Administrative Committee, which is an advisory board
21 to advise the commission regarding the development,
22 implementation, and administration of a program to provide for
23 transfer payments to small independent telephone corporations
24 providing local exchange services in high-cost rural and small
25 metropolitan areas in the state to create fair and equitable local
26 rate structures, as provided for in Section 739.3, the development
27 of a grant program for the construction of telecommunications
28 infrastructure as set forth in Section 276.5, and to carry out the
29 program pursuant to the commission's direction, control, and
30 approval.

31 (b) All revenues collected by telephone corporations in rates
32 authorized by the commission to fund the program specified in
33 subdivision (a) shall be submitted to the ~~commission trustee of~~
34 ~~the universal service programs trust account~~ pursuant to a
35 schedule established by the commission. ~~The commission shall~~
36 ~~transfer the moneys received to the Controller, for deposit in the~~
37 ~~California High-Cost Fund-A Administrative Committee Fund~~
38 ~~Subaccount. All interest earned by moneys in the fund California~~
39 ~~High-Cost Fund-A Administrative Committee Subaccount shall~~
40 ~~be deposited in the fund subaccount. Any unexpended revenues~~

collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to ~~the Controller for deposit in the trustee for deposit into the California High-Cost Fund-A Administrative Committee Fund Subaccount.~~

(c) Moneys ~~appropriated~~ *disbursed* from the California High-Cost Fund-A Administrative Committee ~~Fund to the commission Subaccount~~ shall be utilized exclusively by the ~~commission trustee of the universal service programs trust~~ account for the program specified in subdivision (a), including all costs of the board, *the trustee*, and the commission associated with the administration and oversight of the program and the ~~fund subaccount.~~

~~(d) This section shall become operative on January 1, 2006.~~

SEC. 3. Section 276 of the Public Utilities Code, as amended by Section 2 of Chapter 767 of the Statutes of 2004, is amended to read:

276. (a) There is hereby created the California High-Cost Fund-B Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to provide for transfer payments to telephone corporations providing local exchange services in high-cost areas in the state to create fair and equitable local rate structures, as provided for in Section 739.3, the development of a grant program for the construction of telecommunications infrastructure as set forth in Section 276.5, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the ~~commission trustee of the universal service programs trust account~~ pursuant to a schedule established by the commission. ~~The commission shall transfer the moneys received to the Controller, for deposit in the California High-Cost Fund-B Administrative Committee Fund Subaccount. All interest earned by moneys in the fund California High-Cost Fund-B Administrative Committee Subaccount shall be deposited in the fund subaccount. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer~~

1 those moneys to the ~~Controller for deposit in trustee for deposit~~
2 ~~into the California High-Cost Fund-B Administrative Committee~~
3 ~~Fund Subaccount.~~

4 (c) Moneys—~~appropriated~~ *disbursed* from the California
5 High-Cost Fund-B Administrative Committee ~~Fund to the~~
6 ~~commission~~ *Subaccount* shall be utilized exclusively by the
7 ~~commission~~ *trustee of the universal service programs trust*
8 *account* for the program specified in subdivision (a), including
9 all costs of the board, *the trustee*, and the commission associated
10 with the administration and oversight of the program and the
11 ~~fund subaccount.~~

12 ~~(d) This section shall become operative on January 1, 2006.~~

13 *SEC. 4. Section 277 of the Public Utilities Code is amended*
14 *to read:*

15 277. (a) There is hereby created the Universal Lifeline
16 Telephone Service Trust Administrative Committee, which is an
17 advisory board to advise the commission regarding the
18 development, implementation, and administration of a program
19 to ensure lifeline telephone service is available to the people of
20 the state, as provided for in Article 8 (commencing with Section
21 871) of Chapter 4 of Part 1 of Division 1, and to carry out the
22 program pursuant to the commission's direction, control, and
23 approval.

24 (b) All revenues collected by telephone corporations in rates
25 authorized by the commission to fund the program specified in
26 subdivision (a) shall be submitted to the ~~commission~~ *trustee of*
27 *the universal service programs trust account* pursuant to a
28 schedule established by the commission. ~~Commencing on~~
29 ~~October 1, 2001, and continuing thereafter, the commission shall~~
30 ~~transfer the moneys received, and all unexpended revenues~~
31 ~~collected prior to October 1, 2001, to the Controller, for deposit~~
32 ~~in the Universal Lifeline Telephone Service Trust Administrative~~
33 ~~Committee Fund Subaccount.~~ All interest earned by moneys in
34 the ~~fund~~ *Universal Lifeline Telephone Service Trust*
35 *Administrative Committee Subaccount* shall be deposited in the
36 ~~fund subaccount.~~

37 (c) Moneys—~~appropriated~~ *disbursed* from the Universal
38 Lifeline Telephone Service Trust Administrative Committee
39 ~~Fund to the commission~~ *Subaccount* shall be utilized exclusively
40 by the ~~commission~~ *trustee of the universal service programs trust*

1 *account* for the program specified in subdivision (a), including
 2 all costs of the board, *the trustee*, and the commission associated
 3 with the administration and oversight of the program and the
 4 ~~fund~~ *subaccount*.

5 *SEC. 5. Section 278 of the Public Utilities Code is amended*
 6 *to read:*

7 278. (a) (1) Commencing on July 1, 2003, there is hereby
 8 created the Telecommunications Access for Deaf and Disabled
 9 Administrative Committee, formerly the Deaf and Disabled
 10 Telecommunications Program Administrative Committee, as an
 11 advisory board to advise the commission regarding the
 12 development, implementation, and administration of programs to
 13 provide specified telecommunications services and equipment to
 14 persons in this state who are deaf or disabled, as provided for in
 15 Sections 2881, 2881.1, and 2881.2.

16 (2) In addition to the membership qualifications established by
 17 the commission pursuant to subdivision (a) of Section 271, the
 18 commission shall establish qualifications for persons to serve as
 19 members of the Telecommunications Access for Deaf and
 20 Disabled Administrative Committee so that consumers of
 21 telecommunications services for the deaf and disabled comprise
 22 not less than two-thirds of the membership of the committee. To
 23 the extent feasible, one of those members shall have experience
 24 in the administration of programs similar to those provided for in
 25 Sections 2881, 2881.1, and 2881.2.

26 (3) As part of its advisory role, as specified in paragraph (1),
 27 the Telecommunications Access for Deaf and Disabled
 28 Administrative Committee shall advise the commission regarding
 29 contracts and agreements related to the Deaf and Disabled
 30 Telecommunications Program as specified in subdivisions (d)
 31 and (e) of Section 2881.4.

32 (b) All revenues collected by telephone corporations in rates
 33 authorized by the commission to fund the programs specified in
 34 subdivision (a) shall be submitted to the ~~commission~~ *trustee of*
 35 *the universal service programs trust account* pursuant to a
 36 schedule established by the commission. ~~Commencing on July 1,~~
 37 ~~2003, and continuing thereafter, the commission shall transfer the~~
 38 ~~moneys received, and all unexpended revenue collected prior to~~
 39 ~~July 1, 2003, to the Controller, for deposit in the Deaf and~~
 40 Disabled Telecommunications Program Administrative

~~Committee Fund Subaccount. All interest earned by moneys in the fund Deaf and Disabled Telecommunications Program Administrative Committee Subaccount shall be deposited in the fund. Those revenues that are collected pursuant to subdivision (d) of Section 2881 shall be accounted for separately, as required by subdivision (b) of Section 2881.2, and deposited in the fund created by the commission pursuant to subdivision (b) of Section 2881.2 subaccount.~~

~~(c) Moneys appropriated disbursed from the Deaf and Disabled Telecommunications Program Administrative Committee Fund to the commission Subaccount shall be utilized exclusively by the commission trustee of the universal service programs trust account for the programs specified in subdivision (a), including all costs of the committee, the trustee, and the commission associated with the administration and oversight of the programs and the fund subaccount.~~

~~(d) Commencing on July 1, 2003, staffing—Staffing costs incurred by the commission for oversight and administration of the programs described in subdivision (a) shall be funded by moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund Subaccount.~~

SEC. 6. Section 279 of the Public Utilities Code is amended to read:

279. (a) There is hereby created the Payphone Service Providers Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of programs to educate pay phone service providers, ensure compliance with the commission's requirements for pay phone operations, and educate consumers on matters related to pay phones, as provided for in commission Decision 90-06-018.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the programs specified in subdivision (a) shall be submitted to the ~~commission trustee of the universal service programs trust account~~ pursuant to a schedule established by the commission. ~~Commencing on October 1, 2001, and continuing thereafter, the commission shall transfer the moneys received, and all unexpended revenues collected prior to October 1, 2001, to the Controller, for deposit~~

1 in the Payphone Service Providers Committee Fund Subaccount.
 2 All interest earned by moneys in the ~~fund~~ Payphone Service
 3 Providers Committee Subaccount shall be deposited in the ~~fund~~
 4 subaccount.

5 (c) Moneys ~~appropriated~~ *disbursed* from the Payphone Service
 6 Providers Committee ~~Fund to the commission~~ Subaccount shall
 7 be utilized exclusively by the ~~commission~~ *trustee of the universal*
 8 *service programs trust account* for the program specified in
 9 subdivision (a), including all costs of the board, *the trustee*, and
 10 the commission associated with the administration and oversight
 11 of the program and the ~~fund~~ subaccount.

12 SEC. 7. Section 280 of the Public Utilities Code is amended
 13 to read:

14 280. (a) The commission shall develop, implement, and
 15 administer a program to advance universal service by providing
 16 discounted rates to qualifying schools, libraries, hospitals, health
 17 clinics, and community organizations, consistent with Chapter
 18 278 of the Statutes of 1994.

19 (b) There is hereby created the California Teleconnect Fund
 20 Administrative Committee, which is an advisory board to advise
 21 the commission regarding the development, implementation, and
 22 administration of a program to advance universal service by
 23 providing discounted rates to qualifying schools, libraries,
 24 hospitals, health clinics, and community organizations, consistent
 25 with Chapter 278 of the Statutes of 1994, and to carry out the
 26 program pursuant to the commission's direction, control, and
 27 approval.

28 (c) All revenues collected by telephone corporations in rates
 29 authorized by the commission to fund the program specified in
 30 subdivision (a) shall be submitted to the ~~commission~~ *trustee of*
 31 *the universal service programs trust account* pursuant to a
 32 schedule established by the commission. ~~Commencing on~~
 33 ~~October 1, 2001, and continuing thereafter, the commission shall~~
 34 ~~transfer the moneys received, and all unexpended revenues~~
 35 ~~collected prior to October 1, 2001, to the Controller, for deposit~~
 36 ~~in the California Teleconnect Fund Administrative Committee~~
 37 ~~Fund Subaccount. All interest earned by moneys in the fund~~
 38 ~~California Teleconnect Fund Administrative Committee~~
 39 ~~Subaccount shall be deposited in the fund subaccount.~~

(d) Moneys—~~appropriated~~ *disbursed* from the California Teleconnect Fund Administrative Committee Fund to the ~~commission~~ *Subaccount* shall be utilized exclusively by the ~~commission~~ *trustee of the universal service programs trust account* for the program specified in subdivision (a), including all costs of the board, *the trustee*, and the commission associated with the administration and oversight of the program and the ~~fund~~ *subaccount*.

(e) Moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003 are subject to Section 16320 of the Government Code. If the commission determines a need for moneys in the California Teleconnect Fund Administrative Committee Fund *or the California Teleconnect Fund Administrative Committee Subaccount*, the commission shall notify the Director of Finance of the need, as specified in Section 16320 of the Government Code. The commission may not increase the rates authorized by the commission to fund the program specified in subdivision (b) while moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003 are outstanding unless both of the following conditions are satisfied:

(1) The Director of Finance, after making a determination pursuant to subdivision (b) of Section 16320 of the Government Code, does not order repayment of all or a portion of any loan from the California Teleconnect Fund Administrative Committee Fund within 30 days of notification by the commission of the need for the moneys.

(2) The commission notifies the Director of Finance and the Chairperson of the Joint Legislative Budget Committee in writing that it intends to increase the rates authorized by the commission to fund the program specified in subdivision (a). The notification required pursuant to this paragraph shall be made 30 days in advance of the intended rate increase.

(f) Subdivision (e) shall become inoperative upon full repayment or discharge of all moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003.

SEC. 8. Section 281 of the Public Utilities Code is repealed.

1 ~~281. Any revenues that are deposited in funds created~~
2 ~~pursuant to this chapter shall not be used by the state for any~~
3 ~~purpose other than as specified in this chapter.~~

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